Decision ___________

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Order Instituting Investigation on the Commission's Own Motion Into the Operations and Practices of Wine & Roses Limousine Service, a California Corporation, doing business as AA Limousine, AAA Limousine, Expresso Limousine, Expresso Transportation, AAA Corporate Limousines, Total Transportation Network (TTN), and LaGrande Affaire (PSG-12361-P-B), and its President, Steve Bonner, to Determine Whether They Have Violated the Laws, Rules, and Regulations Governing the Manner in Which Charter-Party Carriers Conduct Operations and Whether They are Fit to Continue to Conduct Passenger Transportation Service.	Investigation 05-06-042 (Filed June 30, 2005)

OPINION APPROVING SETTLEMENT AGREEMENT

I. Summary

This decision approves a settlement agreement between respondents and the Commission's Consumer Protection and Safety Division (CPSD).

II. Background

On June 30, 2005, the Commission opened this investigation to determine whether sufficient evidence exists to order the immediate suspension of respondents' charter-party carrier authority. The Commission ordered that a prehearing conference be scheduled within 40 days, with hearings as soon as practicable thereafter.

As set forth in the Commission's opening order, staff has conducted a thorough investigation of respondents' operations, including regulatory and legal history. Staff alleged 305 violations of the Public Utilities Code and our regulations, as well as the California Vehicle Code. These include allegations of operating after suspension and revocation of permit, failing to have required insurance, and employment of drivers without proper California driver licenses.

Consistent with the Commission's direction for an expeditious hearing process, a prehearing conference was scheduled for Tuesday, July 19, 2005. Respondents were also ordered to file and serve a response to staff's allegations that would specify which, if any, of staff's allegations respondents dispute, and describe the evidence respondents would produce at hearing in support of their position.

On July 11, 2005, respondents' staff notified the assigned Administrative Law Judge (ALJ) that Steve Bonner (a named respondent and the president of the corporate entity holding the charter party authority) was out of the country, and that he required additional time to obtain legal counsel. With the concurrence of respondents, the dates for filing their response and for the prehearing conference were rescheduled for August 19 and 23, 2005, respectively.

Respondents failed to appear at the August 23, 2005, prehearing conference without explanation. Staff telephoned respondents' office but reached only a voicemail recording. The Assigned Commissioner and ALJ convened the prehearing conference and received staff's exhibits into the record.

Due to respondents' failure to appear, and the public safety implications of the staff's allegations, the assigned ALJ and Commissioner decided that respondents' operating authority should be suspended at the earliest opportunity. A draft decision suspending respondents' operating authority was placed on the Commission's September 8, 2005, agenda.

On September 6, 2005, respondents and CPSD submitted a settlement agreement and a motion requesting that the Commission approve it. In light of the settlement agreement, the draft decision was removed from the September 8 agenda.

This decision approves the settlement agreement.

III. Description of the Settlement Agreement

The settlement agreement provides for a fine, payable in installments, a two-year probation period, and semi-annual reports to the Commission's staff, each of which is discussed in more detail below. The settlement agreement is Attachment A to today's decision.

Pursuant to the settlement agreement, respondents agree to pay a fine of $15,000, of which $3,000 is stayed so long as respondents remain in compliance with the settlement agreement. Respondents have agreed to pay the $12,000 fine in $1,000 monthly increments. The first $1,000 payment is due 30 days after the effective date of this decision. If respondents fail to make timely payments, the remaining balance of the $15,000 shall become due and payable immediately.

Respondents will be on probation for two years. If, during this time, CPSD finds any additional violations of Commission rules or law, CPSD will recommend further penalties to the Commission.

Respondents must file a detailed report every six months demonstrating that their insurance, drivers, and equipment are in full compliance with all applicable law and regulations. The report shall also show that any consumer complaint received by respondents has been investigated and resolved.

Respondents' president, Steve Bonner, shall sign each report under penalty of perjury and submit it to CPSD. The first such report is due 30 days after the effective date of this decision.

IV. Settlement Criteria

The Commission evaluates proposed settlement agreements pursuant to the standards set forth in Rule 51.1(e) of the Commission's Rules of Practice and Procedure (Rules). Those standards require that the "settlement is reasonable in light of the whole record, consistent with law, and in the public interest." Each standard will be separately considered below.

Respondents have agreed to bring their operations into full compliance with applicable law, with fine payments to provide monthly reminders for failing to comply. To demonstrate that respondents continue compliance, the settlement agreement also requires respondents to provide semi-annual reports to CPSD during a two-year probationary period. In the joint motion, the parties state that the agreement is "reasonable in that it penalizes respondents for illegal operations, deters future illegal operations, and brings respondents into compliance."

We agree. There is no factual dispute in this record. Under the settlement, "Respondents acknowledge the accuracy of each allegation contained in CPSC's reports" received into evidence. Respondents will be required to comply with detailed law and regulations designed to protect consumers. The fine creates a significant financial incentive against future illegal operations. Should respondents fail to comply, the settlement agreement leaves CPSD numerous options for increasingly severe sanctions. We conclude that the settlement agreement is reasonable in light of whole record and reasonably resolves the issues and furthers our enforcement objectives.

The settlement agreement is consistent with the law in that it requires respondents to comply with the regulations applicable to passenger transportation services. The amount of the fine, as well as the technique of staying a significant portion to entice compliance and restitution, is consistent with previous decisions.

The settlement agreement efficiently and expeditiously resolves these matters, and offers assurance that respondents' future operations will be in compliance with applicable law. We conclude that approving the settlement agreement is in the public interest.

Having found that the settlement agreement is reasonable in light of the record, consistent with the law, and in the public interest, we will approve the settlement agreement.

V. No Hearing is Necessary

The record of the proceeding provides sufficient information for us to evaluate whether the settlement agreement meets our standards for approval. No factual issues require resolution. We conclude that no hearing is necessary.

VI. Comments on Draft Decision

This is an uncontested matter in which the decision grants the relief requested. Pursuant to Pub. Util. Code § 311(g)(2) and Rule 77.7 of the Rules of Practice and Procedure, the comment period is waived.

VII. Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Maribeth A. Bushey is the assigned ALJ in this proceeding.

Findings of Fact

1. The Commission initiated this proceeding in response to consumer complaints and CPSD's investigation.

2. Respondents entered into a settlement agreement with CPSD, which resolves the issues in this proceeding.

3. No hearing is necessary.

4. This is an uncontested matter in which the decision grants the relief requested.

Conclusions of Law

1. The settlement agreement satisfies the requirements of Rule 51.1(e).

2. The settlement agreement is reasonable in light of the whole record, consistent with law, and in the public interest.

3. The settlement agreement should be adopted.

4. The settlement agreement resolves the allegations in this proceeding against respondents.

5. The comment period should be waived.

6. This decision should be effective immediately.

O R D E R

IT IS ORDERED that:

1. Tthe settlement agreement, attached hereto as Attachment A, between the Consumer Protection and Safety Division and Steve Bonner, as president of Wine and Roses Limousine Service is approved and adopted.

2. The comment period is waived.
3. The parties shall comply with all provisions of the settlement agreement.
4. This proceeding is closed.

This order is effective today.

Dated ____________________________, at San Francisco, California.